

Ford Motor Company and Dennis Siriani and Douglas West. Case 7-CA-15120

April 19, 1983

SUPPLEMENTAL DECISION AND ORDER

BY MEMBERS JENKINS, ZIMMERMAN, AND HUNTER

On August 22, 1981, the National Labor Relations Board issued its Decision and Order¹ in this proceeding, finding, in agreement with the Administrative Law Judge, that Respondent violated, *inter alia*, Section 8(a)(3) and (4) of the Act by denying employees Dennis Siriani and Douglas West promotion to supervisory positions because they filed a grievance, filed an unfair labor practice charge, and were considering further concerted legal action in protest over Respondent's promotion policies. The Board rejected as a pretext Respondent's defense that the employees who were promoted were better qualified than Siriani and West. The Board ordered that Respondent, *inter alia*, offer to promote Siriani and West to the supervisory positions to which they would have been promoted and to make them whole for any loss of earnings caused by Respondent's unlawful actions.

On July 20, 1982, the United States Court of Appeals for the Sixth Circuit issued its decision,² upholding the Board's finding that Respondent's failure to promote Siriani and West violated Section 8(a)(3) and (4). However, the court refused to uphold the Board's remedial order stating that it did not believe "that the intent of the Act goes so far as to include court enforcement of Board orders that require management to promote a specific employee to a position within the supervisor ranks."

The court remanded this case to the Board with directions to vacate that portion of its Order requiring Respondent to offer promotions to Siriani and West and to make them whole for loss of earnings. The court further directed the Board to amend the Order to require Respondent to reconsider Siriani and West for supervisory promotions and to "employ every reasonable precaution to insure that such reconsideration is untainted by the events which precipitated this action." In all other respects the Board's Order was affirmed and our application for enforcement was granted.

Pursuant to the provisions of Section 3(b) of the National Labor Relations Act, as amended, the National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

¹ 251 NLRB 413.

² *NLRB v. Ford Motor Co.*, 683 F.2d 156.

The Board having duly considered the matter, and having accepted the court's remand as the law of this case, hereby vacates the above-described provision in the original Order in this proceeding and enters the following Order.

ORDER

Pursuant to Section 10(c) of the National Labor Relations Act, as amended, the National Labor Relations Board hereby orders that the Respondent, Ford Motor Company, Dearborn, Michigan, its officers, agents, successors, and assigns, shall:

1. Cease and desist from:

(a) Coercively interrogating employees concerning their intentions to take concerted legal action against the Company with respect to its promotion policies.

(b) Threatening employees that they will be discharged or denied promotions if they take concerted legal action against the Company with respect to its promotion policies.

(c) Threatening employees with the denial of promotions if they file unfair labor practice charges.

(d) Reprimanding and otherwise harassing employees in retaliation for their having filed unfair labor practice charges.

(e) Denying promotions to employees because they have filed grievances, contemplated further concerted legal action in protest over the Company's promotion policies, and filed unfair labor practice charges.

(f) Discouraging membership in Plant Protection Association National, Local 100, or any other labor organization, by denying promotions to employees because they have engaged in union or other protected concerted activities.

(g) In any like or related manner interfering with, restraining, or coercing employees in the exercise of their rights guaranteed in Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the purposes of the Act:

(a) Reconsider Dennis Siriani and Douglas West for promotion to the supervisory positions which they were unlawfully denied during June and November 1978 and employ every reasonable precaution to ensure that such reconsideration is untainted by the events precipitating this proceeding.

(b) Post at its facilities in Detroit, Michigan, copies of the attached notice marked as "Appendix." Copies of said notice, on forms provided by the Regional Director for Region 7, shall, after being duly signed by Respondent, be posted immediately upon receipt thereof, in conspicuous places, including all places where notices to employees are

usually posted, and shall be maintained by Respondent for 60 consecutive days. Reasonable steps shall be taken to ensure that notices are not altered, defaced, or covered by any other material.

(c) Notify the Regional Director for Region 7, in writing, within 20 days from the date of this Order, what steps Respondent has taken to comply herewith.

APPENDIX

NOTICE TO EMPLOYEES
POSTED PURSUANT TO A JUDGMENT OF THE
UNITED STATES COURT OF APPEALS
ENFORCING AN ORDER OF THE
NATIONAL LABOR RELATIONS BOARD

After a hearing at which all sides had an opportunity to present evidence and state their positions, the National Labor Relations Board found that we have violated the National Labor Relations Act, as amended, and has ordered us to post this notice.

WE WILL NOT coercively interrogate our employees concerning their intentions to take concerted legal action against us with respect to our promotion policies.

WE WILL NOT threaten our employees with discharge or deny them promotions if they take concerted legal action against us with respect to our promotion policies.

WE WILL NOT threaten our employees with the denial of promotions if they file unfair

labor practice charges with the National Labor Relations Board.

WE WILL NOT reprimand or otherwise harass our employees in retaliation for their having filed unfair labor practice charges with the Board.

WE WILL NOT deny promotions to our employees because they have filed grievances and contemplated further concerted legal action in protest over our promotion policies and because they have filed unfair labor practice charges with the Board.

WE WILL NOT discourage membership in Plant Protection Association National, Local 100, or in any other labor organization, by denying promotions to our employees because they have engaged in union or other protected concerted activities.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce our employees in the exercise of the rights guaranteed to them in Section 7 of the National Labor Relations Act, as amended.

WE WILL reconsider Dennis Siriani and Douglas West for promotion to the supervisory positions which they were unlawfully denied and WE WILL use every reasonable precaution to ensure that our reconsideration is not affected by their union or other protected concerted activities.

FORD MOTOR COMPANY